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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,288	08/23/2001	Gerald A. Pierson	18554F	1186
61269	7590	04/30/2007	EXAMINER	
KATRINE A. LEVIN, ESQ. SERIOUS USA. INC. 375 WEST BROADWAY NEW YORK, NY 10012			VARGOT, MATHIEU D	
		ART UNIT		PAPER NUMBER
		1732		
		MAIL DATE	DELIVERY MODE	
		04/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/938,288	PIERSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mathieu D. Vargot	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 February 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 42 and 43 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogelgesang et al (see Figures 1 and 2; col. 1, lines 26-36; col. 2, lines 35-46; col. 3, lines 43-64).

The applied reference discloses injection molding a substrate (12) on whose surface (13) a groove pattern is formed (note that there are two embodiments, see col. 2, lines 37-39), the substrate apparently being molded according to conventional optical disks—see column 2, lines 39-46. Additionally, a magneto-optic layer is deposited over the substrate, with the card being rotated in a card reader to access the digital data. The digital data is contained within a major elevational portion once the disk is finished.

Given the dimensions of the card in Figure 4 of the applied reference (ie, the length is 85 mm = 8.5 cm = 3.35 inches, one half of which is 1.68 inches), it would appear that the disk would certainly be in the range of the 1.6 inches recited in claim 43. Ie, if the digital area of the applied reference were to be extended to cover the entire surface of the card, the 1.6 inch dimension would be rendered obvious over the 1.68 inches taught in Vogelgesang et al. Note also column 3, lines 62-64, which teaches that a hole would be used in lieu of a machine-locating dimple. Essentially, the method of Vogelgesang et al fails to teach the instant outer boundaries of the digital portion of the disk, such that the major portion would have a first pair of spaced apart arcuate peripheries extending

between a second pair of spaced apart linear peripheries. While this is admittedly not shown, it is respectfully submitted that such would constitute an obvious modification over the process of the applied reference in order to put more digital data on the card. By expanding the active/digitally read area of the disk of Vogelgesang et al, the instant disk shape would be the obvious result, or certainly one obvious result.

2. Applicant's arguments with respect to claims 42 and 43 have been considered but are moot in view of the new ground(s) of rejection.

In view of the amendment, new art has been applied which is closer in spirit to the instant invention. While Vogelgesang et al does not explicitly teach that the data portion of the disk has the instant spaced apart peripheries, the reference does envision putting digital data to be read in a rotating reader on a rectangular card. It is submitted that it would not be an inventive step to go from the circular data region contained on a rectangular card of the applied reference to the instant card containing data extending to the outer peripheries of the card, with two of the peripheries being arcuate. Indeed, it is respectfully submitted that such would have been an obvious resultant should one desire to expand the data region of Vogelgesang et al, with the instant arcuate edges being the result of the expansion of the data circle. The edges along the length of the card would be linear, to allow the card to be stored as a credit or business card in a wallet. See column 1, lines 10-25 of the applied reference.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
April 26, 2007

*M. Vargot*  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

*4/26/07*